



**The Comptroller General
of the United States**

Washington, D.C. 20548

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Decision

Matter of: Hazeltine Corporation

File: B-235239

Date: June 22, 1989

DIGEST

Protest is dismissed where contracting agency is in the process of investigating protester's allegations of fraud and bribery in the procurement process and reports that it will take appropriate corrective action, if allegations are true. The protester may reinstate its protest with the General Accounting Office if its allegations are substantiated by the contracting agency and the protester is not satisfied that the contracting agency has taken appropriate corrective action.

DECISION

Hazeltine Corporation protests the award of a contract to Gould, Inc., pursuant to request for proposals (RFP) No. N00019-87-R-0140, issued by the Naval Air Systems Command (NAVAIR) for production of test sets for Identification Friend or Foe (IFF) units.^{1/} Hazeltine alleges that the competition for the contract, which was limited to Hazeltine and Gould, was tainted by fraud. Specifically, Hazeltine charges that Gould paid bribes to a NAVAIR employee (an engineer who was a member of the procurement review board in the protested procurement) to give the firm source selection sensitive information concerning Hazeltine's proposals in order to obtain a competitive

^{1/} Gould competed for the IFF test sets contract against Hazeltine, the only other firm that had been awarded a development contract for the test sets. On February 3, 1989, the contract was awarded to NavCom Defense Electronics, Inc., which had purchased all of Gould's stock.

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advantage in the source selection process.^{2/} Hazeltine also asserts that Gould had an agreement to pay that same NAVAIR employee a large sum of money, contingent on Gould being awarded the contract, in return for his help to Gould during the competition.

In support of its protest, Hazeltine submitted an article from The Washington Post, dated April 4, 1989, concerning Operation Ill Wind, a criminal investigation of alleged improprieties in a number of Department of Defense procurements. The article stated that the NAVAIR employee in question admitted, while testifying as a prosecution witness in the trial of three Teledyne Electronics executives, that he had received monthly payments for inside information on military contracts from a specific attorney. Hazeltine alleges that this same attorney represented Gould in the present procurement, and Hazeltine concludes that Gould must have paid bribes for source selection sensitive information in the present procurement for IFF test sets. The article did not specifically indicate that illegal payments had been made on behalf of Gould to the NAVAIR engineer for inside information in connection with the IFF test set procurement.

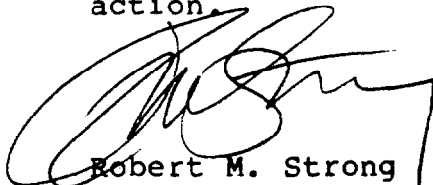
Hazeltine also submitted portions of a transcript from the NAVAIR engineer's testimony in the trial. Among other things, the transcript revealed that the NAVAIR engineer, having already pleaded guilty to conspiracy to defraud the United States, testified that he had accepted bribes from the above-mentioned attorney for inside information in more than one defense procurement. Hazeltine again points out that this is the same attorney who represented Gould in the IFF test sets procurement. The IFF test sets procurement was not mentioned in the portion of the NAVAIR employee's testimony provided by the protester.

The Navy has not submitted a report on the merits of Hazeltine's protest, nor has the agency responded to Hazeltine's request for documents. Instead, the Navy submitted an abbreviated report that included a copy of notes taken by Federal Bureau of Investigation (FBI)

^{2/} We have been advised that Hazeltine itself was suspended from contracting with the government by the Department of the Navy from January 11 to April 11, 1989, after having pleaded guilty to charges of conspiracy to defraud the government in connection with the IFF test sets procurement.

personnel when they interviewed the NAVAIR engineer concerning the IFF test sets procurement as part of the Ill Wind investigation. The Navy stated that it had just received this interview record from the Department of Justice on May 22. The Navy acknowledged that the FBI's interview notes appear to contain evidence that Gould might have been making payments to the NAVAIR engineer in return for source selection sensitive information in the IFF test sets procurement. The Navy reported that it would investigate Hazeltine's allegation that Gould had obtained the IFF test sets contract by fraudulent means, and that the Navy was considering terminating Gould's contract for default or declaring the contract void as a result of the information in the FBI notes and any other information it garners. In sum, the Navy stated that it will take appropriate action based on the results of its investigation.

In view of the ongoing Navy investigation into the allegations of fraud and bribery in the protested procurement, we believe the appropriate course of action at this point is to close our file on Hazeltine's protest pending the results of the Navy's investigation. See Usatrex International, Inc., B-231815.4, Oct. 31, 1988, 88-2 CPD ¶ 413. We are requesting the Navy to complete its investigation as rapidly as possible and to notify the protester and our Office of the results promptly. Upon receipt of these results, the protester may reinstate its protest if its allegations have been substantiated by the Navy and the protester is not satisfied that the Navy has taken the appropriate corrective action.



Robert M. Strong
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